

ORIGINAL

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WILLIAM A. MUNDELL  
JEFF HATCH-MILLER  
KRISTIN K. MAYES  
GARY PIERCE



ARIZONA CORPORATION COMMISSION



0000076110

Arizona Corporation Commission  
**DOCKETED**

DATE: SEPTEMBER 4, 2007

SEP 04 2007

DOCKET NO: W-01580A-04-0672

DOCKETED BY *[Signature]*

TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Dwight D. Nodes. The recommendation has been filed in the form of an Opinion and Order on:

TONTO VILLAGE WATER COMPANY, INC.  
(RATE INCREASE)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and ten (10) copies of the exceptions with the Commission's Docket Control at the address listed below by **4:00** p.m. on or before:

SEPTEMBER 13, 2007

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Working Session and Open Meeting to be held on:

SEPTEMBER 18, 2007 AND SEPTEMBER 19, 2007

For more information, you may contact Docket Control at (602) 542-3477 or the Hearing Division at (602) 542-4250. For information about the Open Meeting, contact the Executive Director's Office at (602) 542-3931.

BRIAN C. McNEIL  
EXECUTIVE DIRECTOR

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AZ CORP COMMISSION  
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1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 COMMISSIONERS

3 MIKE GLEASON, Chairman  
4 WILLIAM A. MUNDELL  
5 JEFF HATCH-MILLER  
6 KRISTIN K. MAYES  
7 GARY PIERCE

8 IN THE MATTER OF APPLICATION OF TONTO  
9 VILLAGE WATER COMPANY, INC. FOR A  
10 RATE INCREASE.

DOCKET NO. W-01580A-04-0672

DECISION NO. \_\_\_\_\_

11 SUPPLEMENTAL  
12 OPINION AND ORDER

13 DATE OF HEARING: February 12, 2007

14 PLACE OF HEARING: Phoenix, Arizona

15 ADMINISTRATIVE LAW JUDGE: Dwight D. Nodes

16 IN ATTENDANCE: Mike Gleason, Chairman  
17 Kristin K. Mayes, Commissioner

18 APPEARANCES: Mr. Ronald D. Standage, on behalf of Applicant; and  
19 Ms. Robin Mitchell, Staff Attorney, Legal Division, on  
20 behalf of the Utilities Division of the Arizona  
21 Corporation Commission.

22 **BY THE COMMISSION:**

23 On August 17, 2005, the Arizona Corporation Commission ("Commission") issued Decision  
24 No. 68066 which granted Tonto Village Water Company, Inc. ("Tonto Village" or "Company") a rate  
25 increase conditioned upon certain filing requirements. Specifically, Tonto Village was ordered to  
26 "immediately fix the leakage found on the pressure tank and the 34,000 gallon storage tank at Well  
27 site No. 2, and file documentation with Docket Control within 30 days of this Decision showing that  
28 the leakage has been repaired." Tonto Village was also directed to "install its planned new water  
source by June 30, 2006 and file a copy of its Arizona Department of Environmental Quality  
("ADEQ") Approval of Construction with Docket Control by June 30, 2006."

On July 10, 2006, Tonto Village filed copies of photographs that purport to show that the  
repairs to leaks in the pressure and storage tanks had been made. The Company also filed a request

1 for a one-year extension of time to comply with the requirement that it install a new water source by  
2 June 30, 2006. Tonto Village stated that it lacked financial resources to meet the deadline for adding  
3 a new water source, but that it intends to seek WIFA financing for the project, and file a new rate  
4 case in 2007 "to become profitable and be able to repay the loan arranged through WIFA."

5 On November 17, 2006, the Commission's Utilities Division Staff ("Staff") filed a  
6 Memorandum recommending that Tonto Village be granted an extension of time, until April 30,  
7 2008, to install its planned new water source, and that the Company be required to file a rate  
8 application, using a 2006 test year, by no later than March 31, 2007. Staff indicated that, based on  
9 discussions with the Company's president and general manager, the requested one-year extension  
10 was no longer a sufficient amount of time to receive rate relief and complete the required work. Staff  
11 recommended that Tonto Village be required file with its rate application, a financing application to  
12 obtain Commission approval for a Water Infrastructure Finance Authority ("WIFA") loan for the  
13 planned new water source. Staff further recommended that no additional time extensions be granted  
14 in these matters.

15 On December 4, 2006, Chairman Gleason filed a letter in the docket requesting that a hearing  
16 be scheduled to require a representative of the Company to explain why it had failed to comply with  
17 the Commission's prior Order.

18 On January 19, 2007, a Procedural Order was issued scheduling a hearing for February 5,  
19 2007.

20 On January 23, 2007, a Procedural Order was issued rescheduling the hearing for February  
21 12, 2007, due to a scheduling conflict.

22 The hearing was held, as scheduled, on February 12, 2007, before a duly authorized  
23 Administrative Law Judge. At the conclusion of the hearing, the matter was taken under advisement  
24 pending issuance of a Recommended Opinion and Order.

25 \* \* \* \* \*

26 Having considered the entire record herein and being fully advised in the premises, the  
27 Commission finds, concludes, and orders that:

28

**FINDINGS OF FACT**

1  
2 1. On August 17, 2005, the Commission issued Decision No. 68066 which granted Tonto  
3 Village a rate increase conditioned upon certain filing requirements. Specifically, the Company was  
4 ordered to “immediately fix the leakage found on the pressure tank and the 34,000 gallon storage tank  
5 at Well site No. 2, and file documentation with Docket Control within 30 days of this Decision  
6 showing that the leakage has been repaired.” Tonto Village was also directed to “install its planned  
7 new water source by June 30, 2006 and file a copy of its ADEQ Approval of Construction with  
8 Docket Control by June 30, 2006.”

9 2. On July 10, 2006, Tonto Village filed copies of photographs purporting to show that  
10 the repairs to leaks in the pressure and storage tanks had been made. The Company also filed a  
11 request for a one-year extension of time to comply with the requirement that it install a new water  
12 source by June 30, 2006. Tonto Village stated that it lacked financial resources to meet the deadline  
13 for adding a new water source, but that it intends to seek WIFA financing for the project, and file a  
14 new rate case in 2007 “to become profitable and be able to repay the loan arranged through WIFA.”

15 3. On November 17, 2006, Staff filed a Memorandum recommending that Tonto Village  
16 be granted an extension of time, until April 30, 2008, to install its planned new water source, and that  
17 the Company be required to file a rate application, using a 2006 test year, by no later than March 31,  
18 2007. Staff indicated that, based on discussions with the Company’s president and general manager,  
19 the requested one-year extension was no longer a sufficient amount of time to receive rate relief and  
20 complete the required work. Staff recommended that Tonto Village be required file with its rate  
21 application, a financing application to obtain Commission approval for a WIFA loan for the planned  
22 new water source. Staff further recommended that no additional time extensions be granted in these  
23 matters.

24 4. A hearing was conducted on February 12, 2007, at which time Ronald Standage  
25 appeared on behalf of the Company and offered sworn testimony. When asked why the Company  
26 failed to comply with the 30-day repair deadline set forth in the Commission’s Order, Mr. Standage  
27 testified that “basically I didn’t get around to it” (Tr. 7). He went on to explain that, although a  
28 leaking valve on the tank was repaired in September [2005], he had to wait to find a welder to repair

1 the pressure tank leak, which was accomplished in January [2006] (*Id.*). However, he did not submit  
2 the required compliance filing until July 10, 2006.

3         5.         With respect to the requirement that Tonto Village install a new water source and file  
4 its ADEQ Approval of Construction by June 30, 2006, Mr. Standage stated that “we don’t have the  
5 money to pay for the engineering to put in a new well” (Tr. 8). According to Mr. Standage, a new  
6 well is estimated to cost approximately \$35,000, with an additional \$1,500 required for preliminary  
7 engineering before the Company could obtain the required ADEQ approval to commence  
8 construction (Tr. 8-9). He indicated that, even with the rate increase approved in 2005, Tonto Village  
9 has revenues of only \$41,000 per year, but has expenses of \$48,000 per year, with the difference  
10 being covered through loans from his family to the Company (Tr. 9).

11         6.         Mr. Standage testified that the Company was founded, and has been operated by, the  
12 Standage family for approximately 50 years. Tonto Village currently has approximately 190  
13 customers. Since his father’s death in 1993, he and his sister have supervised the finances of the  
14 Company (Tr. 10-13). The Company has an operator who lives in Star Valley and who is responsible  
15 for maintaining the wells and chlorinators, and responding to customers (Tr. 31-32).

16         7.         In response to Chairman Gleason’s questions about the importance of complying with  
17 Commission Orders, Mr. Standage claims he was not intentionally trying to disregard the Order, but  
18 he “was trying to balance all the ... balls in the air ... and unfortunately that one fell through” (Tr.  
19 16). Mr. Standage conceded that he was remiss in not submitting the pressure tank repair compliance  
20 filing within the timeframe established by the Commission (Tr. 17). Mr. Standage also testified that  
21 it is sometimes difficult to provide an adequate supply during the summer months when usage  
22 increases, and that many of the water lines are old and in need of repair or replacement (Tr. 19-21).

23         8.         Mr. Standage agreed to seek financial assistance from WIFA for drilling the well that  
24 was required by the Commission’s prior Order, but he would need to get ADEQ approval of the well  
25 plans prior to approaching WIFA (Tr. 25-27). He also indicated that he was attempting to find an  
26 existing water company that would be willing to buy Tonto Village (Tr. 27).

27         9.         At the conclusion of the hearing, Mr. Standage indicated that he was willing to work  
28 with Staff regarding WIFA assistance, and other matters related to ongoing compliance with

1 Commission Orders (Tr. 39-42).

2 **CONCLUSIONS OF LAW**

3 1. Tonto Village Water Company, Inc. is a public service corporation within the meaning  
4 of Article XV of the Arizona Constitution and A.R.S. §§40-246, 40-250 and 40-251.

5 2. The Commission has jurisdiction over the Company and the subject matter of the  
6 application.

7 3. The Commission has authority to enforce compliance with its Orders pursuant to  
8 A.R.S. §40-424.

9 **ORDER**

10 IT IS THEREFORE ORDERED that Tonto Village Water Company, Inc., shall be granted an  
11 extension of time, until April 30, 2008, to install its planned new water source in accordance with  
12 Decision no. 68066. The Company shall, by April 30, 2008, file with Docket Control, as a  
13 compliance item in this docket, a copy of its ADEQ Approval of Construction.

14 IT IS FURTHER ORDERED that Tonto Village Water Company, Inc., shall file a rate  
15 application, using a 2006 test year, by no later than December 31, 2007.

16 IT IS FURTHER ORDERED that Tonto Village Water Company, Inc., shall file with its rate  
17 application, a financing application to obtain Commission approval for a WIFA loan for the planned  
18 new water source.

19 IT IS FURTHER ORDERED that Tonto Village Water Company, Inc., shall work  
20 cooperatively with Commission Staff to secure the required new water source approvals and  
21 financing, and with respect to the rate application required hereinabove.

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IT IS FURTHER ORDERED that failure to comply with the requirements set forth herein may result in penalties for non-compliance, issuance of an Order to Show Cause, and other appropriate remedial measures necessary to ensure compliance.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN \_\_\_\_\_ COMMISSIONER

COMMISSIONER \_\_\_\_\_ COMMISSIONER \_\_\_\_\_ COMMISSIONER

IN WITNESS WHEREOF, I, DEAN S. MILLER, Interim Executive Director of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this \_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
DEAN S. MILLER  
INTERIM EXECUTIVE DIRECTOR

DISSENT \_\_\_\_\_

DISSENT \_\_\_\_\_

1 SERVICE LIST FOR:

TONTO VILLAGE WTER COMPANY, INC.

2 DOCKET NO.:

W-01580A-04-0672

3

4 Ronald D. Standage  
TONTO VILLAGE WATER COMPANY, INC.  
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